



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MAY 10 2016

RE: MUR 7054
(formerly RR 16L-02)
Oakland County Democratic Party
and Philip W. Reid in his official
capacity as treasurer

Dear Mr. Brewer:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission became aware of information suggesting that your clients, Oakland County Democratic Party and Phillip W. Reid in his official capacity as treasurer ("Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 28, 2016, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 52 U.S.C. § 30109. On April 26, 2016, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that that Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as the Committee is notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless the Committee notifies the Commission in writing that it wishes the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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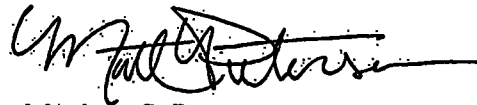
voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

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If the Committee is interested in engaging in pre-probable cause conciliation, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, the Committee may submit any factual or legal materials that it believes are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if the Committee is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Oakland County Democratic Party and
Phillip W. Reid in his official capacity as treasurer

MUR 7054

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 52 U.S.C. § 30109(a)(2).

The Commission's Reports Analysis Division ("RAD") referred the Oakland County Democratic Party and Phillip W. Reid in his official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC") for failing to disclose disbursements totaling \$761,912.15 on three different reports: its 2015 February Monthly, 2015 March Monthly, and 2015 April Monthly Reports.¹ The Committee acknowledges the violations but requests that the Commission take no action because of various factors, including accounting software problems, the large volume of activity, and the lack of impact on federal election activity. For the reasons discussed below, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b).

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

The Committee is a local party committee of the Democratic Party.² On February 19, 2015, the Committee filed its original 2015 February Monthly Report disclosing \$84,387.57 in

¹ *See* RAD Referral, dated January 19, 2016 ("Referral"), incorporated herein by reference.

² *See* Amended Statement of Organization filed on February 18, 2016, available at <http://docquery.fec.gov/pdf/394/201602189008479394/201602189008479394.pdf>.

disbursements.³ On July 16, 2015, the Committee filed an amended 2015 February Monthly Report disclosing \$180,866.72 in disbursements that were not disclosed in the original filing.⁴ On September 27, 2015, RAD sent a Request for Additional Information (RFAI) to the Committee requesting clarification regarding the additional disbursements of \$180,866.72 that were not originally disclosed.⁵ On September 28, 2015, the Committee filed a Miscellaneous Electronic Submission (FEC Form 99) in response to the RFAI, which stated “our amended reports show an increase in disbursements over our original report due to bingo disbursements that did not properly transfer from QuickBooks to NGP.”⁶ On November 2, 2015, the Committee filed an additional FEC Form 99, which repeated that statement *verbatim* and added, “our amendment properly reported the disbursements.”⁷

On March 19, 2015, the Committee filed its original 2015 March Monthly Report disclosing \$52,671.01 in disbursements.⁸ On July 16, 2015, the Committee filed an amended 2015 March Monthly Report disclosing \$355,689.84 in disbursements that were not disclosed in

³ See Referral at 1. This amount is the total of disbursements reported on line 21(b) (Other Federal Operating Expenditures) of the Detailed Summary Page. The Committee also reported small disbursements in other categories on the Detailed Summary Page of the original 2015 February Monthly Report, but those disbursements are not included in this referral. For the original 2015 March Monthly and 2015 April Monthly Reports, the disbursements reported on line 21(b) comprise all the disbursements reported.

⁴ *Id.* at 2. One day earlier, on July 15, 2015, the Committee filed an amendment to the 2015 February Monthly Report disclosing only a small increase in disbursements (\$11.95) from the original report. *Id.* Also on July 15, 2015, the Committee filed amendments to the 2015 March and April Monthly Reports, disclosing no change in disbursements from the original reports. *Id.* at 2-3.

⁵ *Id.* at 2.

⁶ *Id.* QuickBooks is a business accounting program. See <http://quickbooks.intuit.com>. NGP VAN is a technology provider to Democratic campaigns and organizations. See <https://www.ngpvan.com>.

⁷ Referral at 2.

⁸ *Id.*

the original filing.⁹ On September 30, 2015, RAD sent an RFAI to the Committee requesting clarification regarding the additional disbursements of \$355,689.84 that were not originally disclosed.¹⁰ On November 4, 2015, the Committee filed an FEC Form 99 in response to the RFAI, which stated, in part:

Our amended reports show an increase in disbursements over our original report due to bingo disbursements that did not properly transfer from QuickBooks to NGP on our February 2015 [R]eport. The amending of the February [R]eport necessitated the filing of amended reports for all following months. Our amendment properly reported the disbursements.¹¹

On April 20, 2015, the Committee filed its original 2015 April Monthly Report disclosing disbursements of \$18,340.78.¹² On July 16, 2015, the Committee filed an amendment disclosing \$225,355.59 in disbursements that were not disclosed in the original filing.¹³ On September 30, 2015, RAD sent an RFAI to the Committee requesting clarification regarding the additional disbursements of \$225,355.59 that were not originally disclosed.¹⁴ On November 2, 2015, the Committee filed an FEC Form 99 in response to the RFAI, which repeated the statements that the Committee made in the FEC Form 99 concerning the 2015 March Monthly Report.¹⁵

In response to the Referral, the Committee identified three reasons for its reporting errors. First, it acquired four new bingo fundraising licenses from the State of Michigan in September

⁹ *Id.*
¹⁰ *Id.*
¹¹ *Id.* at 3.
¹² *Id.*
¹³ *Id.*
¹⁴ *Id.*
¹⁵ *Id.*

2014, which significantly increased the amount of funds to be reported.¹⁶ Second, the Committee changed its internal reporting procedures substantially in February 2015.¹⁷ The Committee acknowledges that RAD informed the Committee of reporting problems concerning its 2014 disclosure reports, and the Committee determined that it needed to review disclosure reports going back to early 2013.¹⁸ Third, the Committee had two previous treasurers and bookkeepers during the period it had reporting problems.¹⁹

The Committee requests that the Commission take no action in this matter.²⁰ The Committee acknowledges that in the course of “all these operational changes and massive correction of previous reports the inadvertent underreporting of the disbursements at issue took place.”²¹ The Committee then asserts that “when it was discovered, it was promptly corrected.”²² The Committee also asserts that the failure to report disbursements and the subsequent amendments to correct the problems had no effect on federal election activity because the bulk of the disbursements was prize money paid to individual players at its bingo games, and the remaining disbursements were administrative costs, such as maintaining an

¹⁶ Resp. at 1..

¹⁷ *Id.* The Committee states it changed from a process where the treasurer prepared and filed the disclosure reports and the bookkeeper entered transactional data into QuickBooks to a process where the bookkeeper transfers QuickBooks data directly into the disclosure reports using NGP.

¹⁸ *Id.* The Committee received a total of 15 RFAs for calendar year 2014 disclosure reports.

¹⁹ *Id.* The Committee changed treasurers in January 2013, January 2014, and March 2015. *See* Amended Statements of Organization (Jan. 3, 2013, Jan. 29, 2014, Mar. 5, 2015).

²⁰ Resp. at 1.

²¹ *Id.*

²² *Id.*

office.²³ Finally, the Committee asserts that the problems in transferring data from QuickBooks to NGP have been resolved and will not occur again.²⁴

B. Legal Analysis

The Act requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104.²⁵ These reports must include, *inter alia*, the total amount of receipts and disbursements, including the appropriate itemizations, where required.²⁶

Here, the Committee did not comply with the Act's reporting requirements when it failed to disclose \$761,912.15 in disbursements on its original 2015 February Monthly, 2015 March Monthly and 2015 April Monthly Reports. The Committee does not deny these reporting errors.²⁷ Further, the Committee's explanations for its errors do not obviate its obligation to file accurate reports with the Commission. Therefore, the Commission finds reason to believe that Oakland County Democratic Party and Phillip W. Reid in his official capacity as treasurer violated 52 U.S.C. § 30104(b).

²³ *Id.*

²⁴ *Id.*

²⁵ 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

²⁶ *See* 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3.

²⁷ Resp. at 1.

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